M.R. 3140

IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS

Order entered April 8, 2013.

(Deleted material is struck through and new material is underscored.)

Effective May 1, 2013, Illinois Supreme Court Rules 113 and 114 are amended, and effective immediately, Illinois Supreme Court Rules 239, 451, 608, 716, 754, 756, and 10-100 are amended, as follows.

Amended Rule 113

Rule 113. Practice and Procedure in Mortgage Foreclosure Cases

(a) Applicability of the Rule. The requirements of this rule supplement, but do not replace, the requirements set forth in the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101 *et seq*.) and are applicable only to those foreclosure actions filed on or after the effective date of May 1, 2013.

(b) Supporting Documents for Complaints. In addition to the documents listed in section 15-1504 of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1504), a copy of the note, as it currently exists, including all indorsements and allonges, shall be attached to the mortgage foreclosure complaint at the time of filing.

(c) Prove-up Affidavits.

(1) Requirement of Prove-up Affidavits. All plaintiffs seeking a judgment of foreclosure, under section 15-1506 of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1506), by default or otherwise, shall be required to submit an affidavit in support of the amounts due and owing under the note when they file any motion requesting a judgment of default against a mortgagor or a judgment of foreclosure.

(2) Content of Prove-up Affidavits. All affidavits submitted in support of entry of a judgment of foreclosure, default or otherwise, shall contain, at a minimum, the following information:

(i) The identity of the affiant and an explanation as to whether the affiant is a custodian of records or a person familiar with the business and its mode of operation. If the affiant is a person familiar with the business and its mode of operation, the affidavit shall explain how the affiant is familiar with the business and its mode of operation.

(ii) An identification of the books, records, and/or other documents in addition to the payment history that the affiant reviewed and/or relied upon in

drafting the affidavit, specifically including records transferred from any previous lender or servicer. The payment history must be attached to the affidavit in only those cases where the defendant(s) filed an appearance or responsive pleading to the complaint for foreclosure.

(iii) The identification of any computer program or computer software that the entity relies on to record and track mortgage payments. Identification of the computer program or computer software shall also include the source of the information, the method and time of preparation of the record to establish that the computer program produces an accurate payment history, and an explanation as to why the records should be considered "business records" within the meaning of the law.

(3) Additional Evidence. The affidavit shall contain any additional evidence, as may be necessary, in connection with the party's right to enforce the instrument of indebtedness.

(4) Form of Prove-up Affidavits. The affidavit prepared in support of entry of a judgment of foreclosure, by default or otherwise, shall not have a stand-alone signature page if formatting allows the signature to begin on the last page of the affiant's statements. The affidavit prepared shall, at a minimum, be in substantially the following form:

Form 1

IN THE CIRCUIT COURT OF THE ____ JUDICIAL CIRCUIT
FOR _____COUNTY, ILLINOIS

_____	)	
Plaintiff(s)	)	
v.	)	Case. No. _____
_____	)	
Defendant(s)	)	

AFFIDAVIT OF AMOUNTS DUE AND OWING

I, _____, am a _____ of _____. I have authority to make this statement on its behalf because _____ (identify whether you are a custodian of records or a person familiar with the business and its mode of operation; if you are a person familiar with the business and its mode of operation, explain how you are familiar with the business and its mode of operation). If called to testify at the trial of this matter, I could competently testify as to the facts contained in this affidavit.

[If the loan was previously serviced by another entity, the affidavit should provide as follows for the most recent transfer of servicing rights: _____ (name of the bank) acquired the servicing rights for the Defendant's loan on _____ (date) from _____ (name of the prior institution). At the time of this transfer,

the Defendant's loan was _____ (current, or state the amount by which the loan was in default at the time of the transfer).]

The amount due is based on my review of the following records: _____. A true and accurate copy of the payment history and any other document I reviewed when making this calculation is attached to this affidavit (this sentence would only be included if applicable).

_____ (name of the bank) uses _____ (name of the computer program/software) to automatically record and track mortgage payments. This type of tracking and accounting program is recognized as standard in the industry. When a mortgage payment is received, the following procedure is used to process and apply the payment, and to create the records I reviewed: _____ (include the source of the information, method and time of preparation of the record to establish that the computer program produces an accurate record). The record is made in the regular course of _____'s (name of bank) business. In the case at bar, the entries reflecting the Defendant's payments were made in accordance with the procedure detailed above, and these entries were made at or near the time that the payment was received. _____(name of the computer program/software) accurately records mortgage payments when properly operated. In the case at bar, _____(name of the computer program/software) was properly operated to accurately record the Defendant's mortgage payments.

Based on the foregoing, _____ failed to pay amounts due under the Note, and the amount due and owing as of _____ is:

Principal	$_____
Interest	$_____
Pro Rata MIP/PMI	$_____
Escrow Advance	$_____
Late Charges	$_____
NSF Charges	$_____
Property Maintenance	$_____
Property Inspections	$_____
BPO	$_____
GROSS AMOUNT DUE	$_____

Less/Plus balance in reserve accounts $_____

NET AMOUNT DUE $_____

AFFIANT STATES NOTHING MORE.

BY: _____
Affiant

Subscribed and sworn to before me this
____ day of _____, _____
By _____
_____
Notary Public
State of [ ]
My Commission expires: _____, _____
Personally Known ____ OR Produced Identification _____.
Type of identification produced: _____.

If executed within the boundaries of Illinois, the affidavit may be signed pursuant to section 1-109 of the Illinois Code of Civil Procedure (735 ILCS 5/1-109) rather than being notarized.

(d) Defaults.

(1) Notice Required. In all mortgage foreclosure cases where the borrower is defaulted by court order, a notice of default and entry of judgment of foreclosure shall be prepared by the attorney for plaintiff and shall be mailed by the Clerk of the Circuit Court for each judicial circuit. The attorney for plaintiff shall prepare the notice in its entirety and deliver to the Clerk of the Circuit Court one copy for filing and one copy for mailing within two business days after the entry of default. The Clerk of the Circuit Court shall mail within five business days after the entry of default, by United States Postal Service, a copy of the notice of default and entry of judgment of foreclosure to the address(es) provided by the attorney for the plaintiff in an envelope bearing the return address of the Clerk of the Circuit Court and file proof thereof. The notice shall be mailed to the property address or the address on any appearance or other document filed by any defendant. Any notices returned by the United States Postal Service as undeliverable shall be filed in the case file maintained by the Clerk of the Circuit Court.

(2) Form of Notice. The notice of default and entry of judgment of foreclosure shall be in substantially the following form:

Form 2

IN THE CIRCUIT COURT OF THE ____ JUDICIAL CIRCUIT
FOR _____COUNTY, ILLINOIS

_____	)	
Plaintiff(s)	)	
v.	)	Case. No. _____
_____	)	
Defendant(s)	)	

NOTICE OF ENTRY OF DEFAULT AND JUDGMENT OF FORECLOSURE

To: _____
_____
_____

This notice is to advise you of recent activity in the mortgage foreclosure lawsuit now pending in the Circuit Court. DO NOT IGNORE THIS NOTICE. YOU SHOULD ACT IMMEDIATELY.

The Circuit Court has entered an Order of Default and a Judgment of Foreclosure and Sale against you in your case concerning the property located at [insert address].

You may be entitled to file a Motion to Vacate this order. Any such motion should be filed as soon as possible.

[If applicable] You may redeem the property from foreclosure by paying $_____, which is the total amount due plus fees and costs, by [insert day].

[If applicable] If you need legal advice, you may contact _____ for free legal advice.

[NAME OF CLERK]
Clerk of the Circuit Court of _____ County
[Contact information]

(e) Effect on Judgment and Orders. Neither the failure to send the notice required by paragraph (d)(i) nor any errors in preparing or sending the notice shall affect the legal validity of the order of default, the judgment of foreclosure, or any other orders entered pursuant to the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101 *et seq*.) and cannot be the basis for vacating an otherwise validly entered order.

(f) Judicial Sales. In addition to the requirements for judicial sales set forth in

sections 15-1506 and 15-1507 of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1506, 15-1507) the following will apply to mortgage foreclosure sales:

(1) Notice of Sale. Not fewer than 10 business days before the sale, the attorney for the plaintiff shall send notice by mail to all defendants, including defendants in default, of the foreclosure sale date, time, and location of the sale.

(2) Selling Officers. Any foreclosure sale held pursuant to section 15-1507 may be conducted by a private selling officer who is appointed in accordance with section 15-1506(f)(3).

(3) Surplus Funds. If a judicial foreclosure sale held pursuant to Section 15-1507 of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1507) results in the existence of a surplus of funds exceeding the amount due and owing as set forth in the judgment of foreclosure, the attorney for the plaintiff shall send a special notice to the mortgagors advising them of the surplus funds and enclosing a form for presentment of the motion to the court for the funds.

(g) Special Notice of Surplus Funds. The special notice shall be mailed and shall be in substantially the following form:

Form 3

IN THE CIRCUIT COURT OF THE ____ JUDICIAL CIRCUIT
FOR _____COUNTY, ILLINOIS

_____	)	
Plaintiff(s)	)	
v.	)	Case. No. _____
_____	)	
Defendant(s)	)	

SPECIAL NOTICE OF SURPLUS FUNDS

To: _____
_____
_____

There is $_____ remaining after the sale of your property at [insert address of property sold]. You may be entitled to this money.

If you want to obtain this money, you need to:

(1) Complete the enclosed form.

(2) Take the completed form to the Clerk of the Circuit Court [insert the information for the Clerk of the Circuit Court in which the case is pending].

(3) Schedule a date to present the paperwork to the judge.

(4) Mail a copy of the completed form, at least five business days before the date with the judge, to: [insert service list].

(h) Petition for Turnover of Surplus Funds. Each judicial circuit shall make readily available a form petition for turnover of surplus funds to be included in the Special Notice of Surplus Funds required to be mailed by the attorney for plaintiffs. The petition shall be in substantially the following form:

Form 4

IN THE CIRCUIT COURT OF THE ____ JUDICIAL CIRCUIT
FOR _____COUNTY, ILLINOIS

_____	)	
Plaintiff(s)	)	
v.	)	Case. No. _____
_____	)	
Defendant(s)	)	

NOTICE OF MOTION AND PETITION FOR TURNOVER OF SURPLUS FUNDS

TO: _____
_____
_____

On _____, _____, at _____ a.m./p.m. or as soon thereafter as counsel may be heard, I shall appear before the Honorable _____ or any Judge sitting in that Judge's stead, in the courtroom usually occupied by him/her, located at _____, Illinois, and present:

PETITION FOR TURNOVER OF SURPLUS FUNDS
(with Appearance)

Now come(s) _____, and move(s) this Court for entry of an order turning over the surplus proceeds from the foreclosure sale. In support of this Petition, Petitioner(s) state(s) as follows:

(1) All parties to this proceeding have been given notice of this Petition.

(2) The subject property was sold at a foreclosure sale for more than the amount owed the mortgage company and the sale was approved by the Court on ___/____/____.

(3) There is a surplus remaining after all sums are paid in the amount of $_____.

(4) Petitioner(s) is/are a party/parties to the foreclosure case and has/have filed

an appearance in the case.

(5) Petitioner's/Petitioners' interest in the property is (select one, and attach any supporting documents): Owner(s)/Mortgagor(s); Judgment Creditor; Lien Holder; Other (please specify):_____.

(6) If Petitioner(s) is/are not the Mortgagor(s), judgment for the Petitioner(s) has been proved up in the amount of $_____.

(7) Pick one:

- ○ Petitioner(s) has/have a bankruptcy case pending in Bankruptcy Court and has/have ATTACHED a copy of the order from the Bankruptcy Court allowing receipt of the surplus funds ("Order Authorizing Distribution of Surplus Funds").
- ○ Petitioner(s) DOES NOT/DO NOT have a bankruptcy case pending in Bankruptcy Court.

Wherefore, the Petitioner(s), _____, move this Court to turn over to him/her/them the surplus from the foreclosure sale.

I/We, _____, enter my/our appearance(s), *pro se*:

Signature _____
Signature _____

VERIFICATION AND PROOF OF SERVICE

I/We certify under penalty of perjury as provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure, that I/we have read the foregoing Verified Petition for Turnover of Surplus Funds and the statements set forth therein are true and correct and that I sent a copy of this Appearance and Answer by United States mail to the Plaintiff's attorney and any other parties who have appeared and have not heretofore been found by the Court to be in default, on _____, 20__.

Signature _____
Signature _____

(i) Deceased Mortgagors. In all mortgage foreclosure cases where the mortgagor or mortgagors is or are deceased, and no estate has been opened for the deceased mortgagor(s), the court shall, on motion of a party, appoint a special representative to stand in the place of the deceased mortgagor(s) who shall act in a manner similar to that provided by section 13-209 of the Illinois Code of Civil Procedure (735 ILCS 5/13-209).

Adopted Feb. 22, 2013, eff. May 1, 2013; amended Apr. 8, 2013, eff. May 1, 2013.

Amended Rule 114

Rule 114. Loss Mitigation Affidavit

(a) Loss Mitigation. For all actions filed under the Illinois Mortgage Foreclosure Law, and where a mortgagor has appeared or filed an answer or other responsive pleading, Plaintiff must, prior to moving for a judgment of foreclosure, comply with the requirements of any loss mitigation program which applies to the subject mortgage loan.

(b) Affidavit Prior to or at the Time of Moving for a Judgment of Foreclosure. In order to document the compliance required by paragraph (a) above, Plaintiff, prior to or at the time of moving for a judgment of foreclosure, must file an affidavit specifying:

(1) Any type of loss mitigation which applies to the subject mortgage;

(2) What steps were taken to offer said type of loss mitigation to the mortgagor(s); and

(3) The status of any such loss mitigation efforts.

(c) Form of Affidavit. The form of the affidavit shall be as set forth below in Form 1, or shall be in a form specified by amendment to this rule, but, in any case, shall contain the information set forth in paragraph (b) above.

Form 1

IN THE CIRCUIT COURT OF THE ____ JUDICIAL CIRCUIT
FOR _____COUNTY, ILLINOIS

_____	)	
Plaintiff(s)	)	
v.	)	Case. No. _____
_____	)	
Defendant(s)	)	

LOSS MITIGATION AFFIDAVIT

I, _____[name]_____, hereby state as follows:

(1) I am employed as ____[job title]_____ of ____[name]____, the mortgagee as defined in section 15-1208 of the Illinois Mortgage Foreclosure Law for the residential mortgage loan that is the subject of the pending foreclosure case, and I am authorized to act on behalf of plaintiff.

(2) With respect to the subject mortgage loan, my employer is the appropriate entity to extend loss mitigation, if any, to the mortgagor(s), as defined in Section 15-1209 of the Illinois Mortgage Foreclosure Law.

(3) I have performed or caused to be performed a review of the records maintained in the ordinary course of the business of my employer relating to the

subject mortgage loan, and based upon that review:

(a) The subject mortgage loan is eligible for the following loss mitigation programs[1]:

_____

_____

(b) For each of the programs listed above in 3(a), the following steps have been taken by the mortgagee to comply with its obligations under such program:

_____

_____

(c) For each of the programs listed above in 3(a), the current status of loss mitigation effort is as follows:

_____

_____

(4) The above is true and accurate to the best of my personal knowledge and based upon my review of the records as set forth above.

Affiant states nothing more.

BY: _____
AFFIANT

Subscribed and sworn to before me this
_____ day of _____, 20___
by _____.
_____
Notary Public
State of [name]
My Commission expires: _____, 20___
Personally Known _____ **OR** Produced Identification _____.
Type of Identification Produced: _____.

(d) Enforcement. The court may, either *sua sponte* or upon motion of a

[1]Identify here all applicable loss mitigation programs including but not limited to those available under the Making Home Affordable Program, the 2012 National Attorney General Settlement, or the FHA, VA, or USDA insured-loan programs. Also identify any "in-house" loss mitigation regularly provided by the mortgagee for a mortgage loan of this type. "Eligible" means the loan is eligible to be considered under such programs because it meets the threshold requirements; eligible does not mean that a loss mitigation alternative to foreclosure is guaranteed.

mortgagor, stay the proceedings or deny entry of a foreclosure judgment if Plaintiff fails to comply with the requirements of this rule.

Adopted Feb. 22, 2013, eff. May 1, 2013; amended Apr. 8, 2013, eff. May 1, 2013.

Committee Comments
(April 8, 2013)

The context out of which Rule 114 arises is the huge increase in the number of foreclosure cases filed in the Illinois state courts. It is recognized by all members of the Committee that, wherever possible, it is in the best interests of all parties, the courts, and the local communities to avoid a foreclosure sale in favor of a workable loss mitigation alternative. Toward this end, Rule 114 requires the plaintiff to file an affidavit to document compliance with any loss mitigation program applicable to the mortgage loan at issue. The affidavit must be filled out and filed prior to or at the time of moving for a judgment of foreclosure. As such, the intended purpose of the rule is to prevent the entry of a judgment of foreclosure where the plaintiff has theretofore failed to comply with applicable loss mitigation requirements, be they local, state, or federal. The filing of the affidavit allows the court to review the plaintiff's level of compliance with applicable loss mitigation requirements, and, if necessary, to deny a motion for judgment of foreclosure if said compliance is lacking.

Specific procedures for filing and presenting the affidavit to the court may differ from county to county. Where counties have mediation programs in place, it is advisable that the county adopt procedures to incorporate the loss mitigation affidavit into the mediation process. Where no mediation program is in place, or where an individual case is not subject to mediation, the county and individual courts should consider appropriate local procedures to facilitate the use of the affidavit in achieving its intended purpose. The affidavit requirement is intended to apply to all judgments on or after the effective date of the rule, no matter the foreclosure filing date. Because the affidavit must be filed prior to the entry of a foreclosure judgment, the effective date requires application to any case where a judgment of foreclosure has not yet been entered. Thus, although a case may already have been filed prior to the effective date of Rule 114, the Rule would apply if a judgment of foreclosure has not yet been entered.

Amended Rule 239

Rule 239. Instructions

(a) Use of IPI Instruction; Requirements of Other Instructions. Whenever Illinois Pattern Jury Instructions (IPI), Civil, contains an instruction applicable in a civil case, giving due consideration to the facts and the prevailing law, and the court determines that the jury should be instructed on the subject, the IPI instruction shall

be used, unless the court determines that it does not accurately state the law. The most current version of the IPI Civil instructions is maintained on the Supreme Court website. Whenever IPI does not contain an instruction on a subject on which the court determines that the jury should be instructed, the instruction given in that subject should be simple, brief, impartial, and free from argument.

(b) Court's Instructions. At any time before or during the trial, the court may direct counsel to prepare designated instructions. Counsel shall comply with the direction, and copies of instructions so prepared shall be marked "Court's Instruction." Counsel may object at the conference on instructions to any instruction prepared at the court's direction, regardless of who prepared it, and the court shall rule on these objections as well as objections to other instructions. The grounds of the objections shall be particularly specified.

(c) Procedure. Each instruction shall be accompanied by a copy, and a copy shall be delivered to opposing counsel. In addition to numbering the copies and indicating who tendered them, as required by section 2-1107 of the Code of Civil Procedure, the copy shall contain a notation substantially as follows:

"IPI No. _____" or "IPI No. _____ Modified" or "Not in IPI"

as the case may be. All objections made at the conference and the rulings thereon shall be shown in the report of proceedings. The original instructions given by the court to the jury shall be taken by the jury to the jury room.

(d) Instructions Before Opening Statements. After the jury is selected and before opening statements, the court may orally instruct the jury as follows:

(i) On cautionary or preliminary matters, including, but not limited to, the burden of proof, the believability of witnesses, and the receipt of evidence for a limited purpose.

(ii) On the substantive law applicable to the case, including, but not limited to, the elements of the claim or affirmative defense.

(e) Instructions After the Close of Evidence. After the close of evidence, the court shall repeat any applicable instructions given to the jury before opening statements and instruct the jury on procedural issues and the substantive law applicable to the case, including, but not limited to, the elements of the claim or affirmative defense. The court may, in its discretion, read the instructions to the jury prior to closing argument. Whether or not the instructions are read prior to closing argument, the court shall read the instructions to the jury following closing argument and may, in its discretion, distribute a written copy of the instructions to each juror. Jurors shall not be given a written copy of the jury instructions prior to counsel concluding closing argument.

(f) Instructions During Trial. Nothing in this rule is intended to restrict the court's authority to give any appropriate instruction during the course of the trial.

Amended May 28, 1982, effective July 1, 1982; amended October 1, 1998, effective January 1, 1999; amended June 11, 2009, effective September 1, 2009; amended December 16, 2010, effective January 1, 2011; amended Apr. 8, 2013, eff. immediately.

Amended Rule 451

Rule 451. Instructions

(a) Use of IPI Criminal Instructions; Requirements of Other Instructions. Whenever Illinois Pattern Jury Instructions, Criminal ~~(4th ed. 2000) (IPI Criminal 4th)~~, contains an instruction applicable in a criminal case, giving due consideration to the facts and the governing law, and the court determines that the jury should be instructed on the subject, the IPI Criminal ~~4th~~ instruction shall be used, unless the court determines that it does not accurately state the law. The most current version of the IPI Criminal instructions is maintained on the Supreme Court website. Whenever IPI Criminal ~~4th~~ does not contain an instruction on a subject on which the court determines that the jury should be instructed, the instruction given on that subject should be simple, brief, impartial, and free from argument.

(b) Court's Instructions. At any time before or during the trial, the court may direct counsel to prepare designated instructions. Counsel shall comply with the direction, and copies of instructions so prepared shall be marked "Court's Instructions." Counsel may object at the conference on instructions to any instruction prepared at the court's direction, regardless of who prepared it, and the court shall rule on these objections as well as objections to other instructions. The grounds of the objections shall be particularly specified.

(c) Section 2-1107 of the Code of Civil Procedure to Govern. Except as otherwise provided in these rules, instructions in criminal cases shall be tendered, settled, and given in accordance with section 2-1107 of the Code of Civil Procedure, but substantial defects are not waived by failure to make timely objections thereto if the interests of justice require. The court shall instruct the jury after the arguments are completed, or, in its discretion, at the close of all the evidence.

(d) Procedure. The court shall be provided an original and a copy of each instruction, and a copy shall be delivered to each opposing counsel. In addition to numbering the copies and indicating who tendered them, as required by section 2-1107 of the Code of Civil Procedure, the copy shall contain a notation substantially as follows:

> "IPI Criminal ~~4th~~ No. _____" or "IPI Criminal No. _____ Modified"
> or "Not in IPI Criminal"

as the case may be. All objections made at the conference and the rulings thereon shall be shown in the report of proceedings.

(e) Instructions Before Opening Statements. After the jury is selected and before opening statements, the court may orally instruct the jury as follows:

(i) On cautionary or preliminary matters, including, but not limited to, the burden of proof, the believability of witnesses, and the receipt of evidence for a limited purpose.

(ii) On the issue of substantive law applicable to the case, including, but not limited to, the elements of the offense. When requested by the defendant, the court may instruct the jury on the elements of an affirmative defense. Nothing in this rule is intended to eliminate the giving of written instructions at the close of the trial in accord with paragraph (c).

(f) Instructions During Trial. Nothing in the rule is intended to restrict the court's authority to give any appropriate instruction during the course of the trial.

(g) Proceedings When an Enhanced Sentence is Sought. When the State intends, for the purpose of sentencing, to rely on one or more sentencing enhancement factors which are subject to the notice and proof requirements of section lll-3(c-5) of the Code of Criminal Procedure, the court may, within its discretion, conduct a unitary trial through verdict on the issue of guilt and on the issue of whether a sentencing enhancement factor exists. The court may also, within its discretion, upon motion of a party, conduct a bifurcated trial. In deciding whether to conduct such a bifurcated trial, the court must first hold a pretrial hearing to determine if proof of the sentencing enhancement factor is not relevant to the question of guilt or if undue prejudice outweighs the factor's probative value. Such bifurcated trial shall be conducted subject to the following:

(1) The court shall first conduct a trial through verdict on the issue of guilt under the procedures applicable to trials in other cases.

(2) If a guilty verdict is rendered, the court shall then conduct a separate proceeding before the same jury, or before the court if a jury was waived at trial or is waived for purposes of the separate proceeding. This separate proceeding shall be confined to the issue of whether the sentencing enhancement factor exists. The order in which the parties may present evidence and argument and the rules governing admission of evidence shall be the same as at trial, with the burden remaining on the State to prove the factor beyond a reasonable doubt. After the evidence is closed, the submission and giving of instructions shall proceed in accordance with paragraphs (a), (b), (c) and (d) of this rule.

(3) The court may enter a directed verdict or judgment notwithstanding the verdict respecting any fact at issue in the separate proceeding.

Amended June 19, 1968, effective January 1, 1969; amended February 19, 1982, effective April 1, 1982; amended May 28, 1982, effective July 1, 1982; amended May 20, 1997, effective July 1, 1997; amended February 10, 2006, effective July 1, 2006; amended Feb. 6, 2013, eff. immediately; amended Apr. 8, 2013, eff. immediately.

Amended Rule 608

Rule 608. The Record on Appeal

(a) Designation and Contents. The clerk of the circuit court shall prepare the record on appeal upon the filing of a notice of appeal. The record on appeal must contain the following:

(1) a cover sheet showing the title of the case;

(2) a certificate of the clerk showing the impaneling of the grand jury if the prosecution was commenced by indictment;

(3) the indictment, information, or complaint;

(4) a transcript of the proceedings at the defendant's arraignment and plea;

(5) all motions, transcript of motion proceedings, and orders entered thereon;

(6) all arrest warrants, search warrants, consent to search forms, eavesdropping orders, and any similar documents;

(7) a transcript of proceedings regarding waiver of counsel and waiver of jury trial, if any;

(8) the report of proceedings, including opening statements by counsel, testimony offered at trial, and objections thereto, offers of proof, arguments and rulings thereon, the instructions offered and given, and the objections and rulings thereon, closing argument of counsel, communications from the jury during deliberations, and responses and supplemental instructions to the jury and objections, arguments and rulings thereon; the court reporting personnel as defined in Rule 46 shall take the record of the proceedings regarding the selection of the jury, but the record need not be transcribed unless a party designates that such proceedings be included in the record on appeal;

(9) exhibits offered at trial and sentencing, along with objections, offers of proof, arguments, and rulings thereon; except that physical and demonstrative evidence, other than photographs, which do not fit on a standard size record page shall not be included in the record on appeal unless ordered by a court upon motion of a party or upon the court's own motion;

(10) the verdict of the jury or finding of the court;

(11) post-trial motions, including motions for a new trial, motions in arrest of judgment, motions for judgment notwithstanding the verdict and the testimony, arguments and rulings thereon;

(12) a transcript of proceedings at sentencing, including the presentence investigation report, testimony offered and objections thereto, offers of proof, argument, and rulings thereon, arguments of counsel, and statements by the defendant and the court;

(13) the judgment and sentence; and

(14) the notice of appeal, if any.

Within 14 days after the notice of appeal is filed the appellant and the appellee may file a designation of additional portions of the circuit court record to be included in the record on appeal. Thereupon the clerk shall include those portions in the record on appeal. Additionally, upon motion of a party, the court may allow photographs of exhibits to be filed as a supplemental record on appeal, in lieu of the exhibits themselves, when such photographs accurately depict the exhibits themselves. There is no distinction between the common law record and the report of proceedings, for the purpose of determining what is properly before the reviewing court.

(b) Report of Proceedings; Time. The report of proceedings contains the testimony and exhibits, the rulings of the trial judge, and all other proceedings before the trial judge, unless the parties designate or stipulate for less. It shall be certified by court reporting personnel or the trial judge and shall be filed in the trial court within 49 days after the filing of the notice of appeal. The report of proceedings shall be taken as true and correct unless shown to be otherwise and corrected in a manner permitted by Rule 329.

(c) Time for Filing Record on Appeal. The record shall be filed in the reviewing court within 63 days from the date the notice of appeal is filed in the trial

court. If more than one appellant appeals from the same judgment or from different judgments in the same cause to the same reviewing court, the trial court may prescribe the time for filing the record in the reviewing court, which shall not be more than 63 days from the date the last notice of appeal is filed. If the time for filing the report of proceedings has been extended, the record on appeal shall be filed within 14 days after the expiration of the extended time.

(d) Extensions of Time. The reviewing court or any judge thereof may extend the time for filing, in the trial court, the report of proceedings or agreed statement of facts or for serving a proposed report of proceedings, on notice and motion filed in the reviewing court before the expiration of the original or extended time, or on notice and motion filed within 35 days thereafter. Motions for extensions of time shall be supported by an affidavit showing the necessity for extension, and motions made after expiration of the original or extended time shall be further supported by a showing of reasonable excuse for failure to file the motion earlier.

Amended October 21, 1969, effective January 1, 1970; amended September 29, 1978, effective November 1, 1978; amended July 30, 1979, effective October 15, 1979; amended February 19, 1982, effective April 1, 1982; amended July 3, 1986, effective August 1, 1986; amended September 22, 1997, effective January 1, 1998; amended December 13, 2005, effective immediately; amended Feb. 6, 2013, eff. immediately; amended Apr. 8, 2013, eff. immediately.

Amended Rule 716

Rule 716. Limited Admission Of House Counsel

A person who, as determined by the Board of Admissions to the Bar, has been licensed to practice in the highest court of law in any United States state, territory, or the District of Columbia may receive a limited license to practice law in this state when the lawyer is employed in Illinois as house counsel exclusively for a single corporation, partnership, association or other legal entity (as well as any parent, subsidiary or affiliate thereof), the lawful business of which consists of activities other than the practice of law or the provision of legal services upon the following conditions:

(a) The applicant meets the educational requirements of Rule 703;

(b) The applicant meets Illinois character and fitness requirements and has been certified by the Committee on Character and Fitness;

(c) The applicant has passed the Multistate Professional Responsibility Exam in Illinois or in any jurisdiction in which it was administered;

(d) The applicant is in good disciplinary standing before the highest court of every jurisdiction in which ever admitted and is at the time of application on active status in at least one such jurisdiction;

(e) The applicant has paid the fee for limited admission of house counsel under Rule 706.

(f) Application requirements. To apply for the limited license, the applicant must

file with the Board of Admissions to the Bar the following:

(1) A completed application for the limited license in the form prescribed by the Board;

(2) A duly authorized and executed certification by applicant's employer that:

(A) The employer is not engaged in the practice of law or the rendering of legal services, whether for a fee or otherwise;

(B) The employer is duly qualified to do business under the laws of its organization and the laws of Illinois;

(C) The applicant works exclusively as an employee of said employer for the purpose of providing legal services to the employer at the date of his or her application for licensure; and

(D) The employer will promptly notify the Clerk of the Supreme Court of the termination of the applicant's employment.

(3) Such other affidavits, proofs and documents as may be prescribed by the Board.

(g) Authority and Limitations. A lawyer licensed and employed as provided by this Rule has the authority to act on behalf of his or her employer for all purposes as if licensed in Illinois. The lawyer may not act as counsel for the employer until the application is accepted and approved by the Court. A lawyer licensed under this rule shall not offer legal services or advice to the public or in any manner hold himself or herself out to be engaged or authorized to engage in the practice of law, except such lawyer may provide voluntary *pro bono* public services as ~~provided~~ defined in Rule 756~~(j)~~(f).

(h) Duration and Termination of License. The license and authorization to perform legal services under this rule shall terminate upon the earliest of the following events:

(1) The lawyer is admitted to the general practice of law under any other rule of this Court.

(2) The lawyer ceases to be employed as house counsel for the employer listed on his or her initial application for licensure under this rule; provided, however, that if such lawyer, within 120 days of ceasing to be so employed, becomes employed by another employer and such employment meets all requirements of this Rule, his or her license shall remain in effect, if within said 120-day period there is filed with the Clerk of the Supreme Court: (A) written notification by the lawyer stating the date on which the prior employment terminated, identification of the new employer and the date on which the new employment commenced; (B) certification by the former employer that the termination of the employment was not based upon the lawyers character and fitness or failure to comply with this rule; and (C) the certification specified in subparagraph (f)(2) of this rule duly executed by the new employer. If the employment of the lawyer shall cease with no subsequent employment within 120 days thereafter, the lawyer shall promptly notify the Clerk of the Supreme Court in writing of the date of termination of the employment, and shall not be authorized to represent any

single corporation, partnership, association or other legal entity (or any parent, subsidiary or affiliate thereof).

(3) The lawyer is suspended or disbarred from practice in any jurisdiction or any court or agency before which the lawyer is admitted.

(4) The lawyer fails to maintain active status in at least one jurisdiction.

(i) Annual Registration and MCLE. Beginning with the year in which a limited license to practice law under this rule is granted and continuing for each subsequent year in which house counsel continues to practice law in Illinois under the limited license, house counsel must register with the Attorney Registration and Disciplinary Commission and pay the fee for active lawyers set forth in Rule 756 and fully comply with all MCLE requirements for active lawyers set forth in Rule 790 *et seq.*

(j) Discipline. A lawyer licensed under this rule shall be subject to the jurisdiction of the Court for disciplinary purposes to the same extent as all other lawyers licensed to practice law in this state.

(k) Credit toward Admission on Motion. The period of time a lawyer practices law while licensed under this rule may be counted toward eligibility for admission on motion, provided all other requirements of Rule 705 are met.

(l) Newly Employed House Counsel. A lawyer who is newly employed as house counsel in Illinois shall not be deemed to have engaged in the unauthorized practice of law in Illinois prior to licensure under this rule if application for the license is made within 90 days of the commencement of such employment.

Adopted February 11, 2004, effective July 1, 2004; amended March 26, 2008, effective July 1, 2008; amended October 1, 2010, effective January 1, 2011; amended December 9, 2011, effective July 1, 2012; amended Apr. 8, 2013, eff. immediately.

Amended Rule 754

RULE 754. Subpoena Power

(a) **Power to Take Evidence.** The Administrator, the Inquiry Board and the Hearing Board are empowered to take evidence of respondents, petitioners and any other attorneys or persons who may have knowledge of the pertinent facts concerning any matter which is the subject of an investigation or hearing.

(b) **Issuance of Subpoenas.** The clerk of the court shall issue a subpoena *ad testificandum* or a subpoena *duces tecum* as provided below:

(1) upon request of the Administrator related to an investigation conducted pursuant to Rules 752, 753, 759, 767, 779, or 780 or related to a deposition or hearing before the Hearing Board; the Administrator may use a subpoena in an investigation conducted pursuant to Rule 753 until such time as a complaint is filed with the Hearing Board;

(2) upon request of the Inquiry or Hearing Board related to a proceeding pending before the Board;

(3) upon request of the respondent or the petitioner related to a deposition or

hearing before the Hearing Board; ~~or~~

(4) upon request of the Administrator related to the investigation or review of a Client Protection Claim~~.~~; or

(5) upon the request of the Administrator in aid of a person or entity authorized to compel a witness to appear by the laws governing lawyer discipline or disability investigations and proceedings in another jurisdiction, for that person or entity to compel a witness to appear in the county in Illinois in which the witness resided, is employed, or is served with the subpoena and to give testimony and/or produce documents, to the same extent authorized in the discipline or disability investigation and/or proceeding of the other jurisdiction. The person or entity seeking the issuance of a subpoena shall provide to the Administrator proof of authority to compel the attendance of the witness under the laws of the other jurisdiction.

(c) **Fees and Costs.** Respondents and petitioners shall not be entitled to a witness fee or reimbursement for costs to comply with any subpoena issued pursuant to this rule. All other persons shall be entitled to payment for fees, mileage and other costs as provided by law. Such payments shall be made by the Commission for a subpoena issued at the instance of the Administrator, the Inquiry Board or the Hearing Board. Such payments shall be made by the respondent or the petitioner for a subpoena issued at his instance.

(d) **Judicial Review.** A motion to quash a subpoena issued pursuant to this rule shall be filed with the court. Any person who fails or refuses to comply with a subpoena may be held in contempt of the court.

(e) **Enforcement.** A petition for rule to show cause why a person should not be held in contempt for failure or refusal to comply with a subpoena issued pursuant to this rule shall be filed with the court. Unless the court orders otherwise, the petition shall be referred to the chief judge of the circuit court of Cook County or Sangamon County or any other judge of those circuits designated by the chief judge. The designated judge shall be empowered to entertain petitions, hear evidence, and enter orders compelling compliance with subpoenas issued pursuant to this rule. When a petition is referred to the circuit court, the following procedures should be followed:

(1) The Clerk of the Supreme Court shall forward a copy of the petition for rule to show cause to the designated judge of the circuit court and, at the same time, shall send notice to the party who filed the petition and all persons upon whom the petition was served that the matter has been referred to the circuit court. The notice shall name the judge to whom the matter has been referred and state the courthouse at which proceedings pertaining to the petition will be heard.

(2) Any answer to the petition or other responsive pleading shall be filed with the Clerk of the Supreme Court and a copy of such answer or other pleading shall be delivered to the judge to whom the matter has been referred by mailing or hand delivering the copy to the chambers of the designated judge. The proof of service for such answer or other responsive pleading shall state that delivery to the designated judge was made in accordance with this rule.

(3) Proceedings on the petition before the designated judge, including scheduling of hearings and time for serving notices of hearing, shall be governed

by the rules of the circuit court in which the designated judge sits, unless otherwise ordered by the judge.

(4) The designated judge may enter any order available to the circuit court in the exercise of its authority to enforce subpoenas, including orders for confinement or fines. If the judge finds an attorney in contempt for failure to comply with a subpoena issued pursuant to this rule, in addition to entertaining any other order, the judge may also recommend that the court suspend the attorney from the practice of law in this State until the attorney complies with the subpoena. Upon issuance of such a recommendation by the designated judge, the Administrator shall file with the Clerk of the Supreme Court a petition seeking implementation of the recommendation of suspension.

Adopted January 25, 1973, effective February 1, 1973; amended May 21, 1975; amended June 12, 1987, effective August 1, 1987; amended November 29, 1990, effective December 1, 1990; amended March 28, 1994, effective immediately; amended April 1, 1994, effective immediately; amended December 7, 2011, effective immediately; amended Apr. 8, 2013, eff. immediately.

Amended Rule 756

Rule 756. Registration and Fees

(a) Annual Registration Required. Except as hereinafter provided, every attorney admitted to practice law in this state shall register and pay an annual registration fee to the Commission on or before the first day of January. Except as provided below, all fees and penalties shall be retained as a part of the disciplinary fund. The following schedule shall apply beginning with registration for 2013 and until further order of the court:

(1) No registration fee is required of an attorney admitted to the bar less than one year before the first day of January for which the registration fee is due; an attorney admitted to the bar for more than one year but less than three years before the first day of January for which the registration fee is due shall pay an annual registration fee of $105; an attorney admitted to the bar for more than three years before the first day of January for which the registration fee is due shall pay an annual registration fee of $342, out of which $7 shall be remitted to the Lawyers' Assistance Program Fund, $95 shall be remitted to the Lawyers Trust Fund, $15 shall be remitted to the Supreme Court Commission on Professionalism, and $25 shall be remitted to the Client Protection Program Trust Fund. For purposes of this rule, the time shall be computed from the date of an attorney's initial admission to practice in any jurisdiction in the United States.

(2) An attorney in the Armed Forces of the United States shall be exempt from paying a registration fee until the first day of January following discharge.

(3) An attorney who has reached the age of 75 years shall be excused from the further payment of registration fees.

(4) No registration fee is required of any attorney during the period he or she

is serving in one of the following offices in the judicial branch:

(A) in the office of justice, judge, associate judge or magistrate of a court of the United States of America or the State of Illinois; or

(B) in the office of judicial law clerk, administrative assistant, secretary or assistant secretary to such a justice, judge, associate judge or magistrate, or in any other office included within the Supreme Court budget that assists the Supreme Court in its adjudicative responsibilities, provided that the exemption applies only if the attorney is prohibited by the terms of his or her employment from actively engaging in the practice of law.

(5) An attorney may advise the Administrator in writing that he or she desires to assume inactive status and, thereafter, register as an inactive status attorney. The annual registration fee for an inactive status attorney shall be $105. Upon such registration, the attorney shall be placed upon inactive status and shall no longer be eligible to practice law or hold himself or herself out as being authorized to practice law in this state, except as is provided in paragraph (j) of this rule. An attorney who is on the master roll as an inactive status attorney may advise the Administrator in writing that he or she desires to resume the practice of law, and thereafter register as active upon payment of the registration fee required under this rule and submission of verification from the Director of MCLE that he or she has complied with MCLE requirements as set forth in Rule 790 *et seq*. If the attorney returns from inactive status after having paid the inactive status fee for the year, the attorney shall pay the difference between the inactive status registration fee and the registration fee required under paragraphs (a)(1) through (a)(4) of this rule. Inactive status under this rule does not include inactive disability status as described in Rules 757 and 758. Any lawyer on inactive disability status is not required to pay an annual fee.

(6) An attorney may advise the Administrator in writing that he or she desires to assume retirement status and, thereafter, register as a retired attorney. Upon such registration, the attorney shall be placed upon retirement status and shall no longer be eligible to practice law or hold himself or herself out as being authorized to practice law in this state, except as is provided in paragraph (j) of this rule. The retired attorney is relieved thereafter from the annual obligation to register and pay the registration fee. A retired attorney may advise the Administrator in writing that he or she desires to register as an active or inactive status lawyer and, thereafter so register upon payment of the fee required for the current year for that registration status, plus the annual registration fee that the attorney would have been required to pay if registered as active for each of the years during which the attorney was on retirement status. If the lawyer seeks to register as active, he or she must also submit, as part of registering, verification from the Director of MCLE of the lawyer's compliance with MCLE requirements as set forth in Rule 790 *et seq*.

(7) An attorney who is on voluntary inactive status pursuant to former Rule 770 who wishes to register for any year after 1999 shall file a petition for restoration under Rule 759. If the petition is granted, the attorney shall advise the Administrator in writing whether he or she wishes to register as active, inactive

or retired, and shall pay the fee required for that status for the year in which the restoration order is entered. Any such attorney who petitions for restoration after December 31, 2000, shall pay a sum equal to the annual registration fees that the attorney would have been required to pay for each full year after 1999 during which the attorney remained on Rule 770 inactive status without payment of a fee.

(8) Upon written application and for good cause shown, the Administrator may excuse the payment of any registration fee in any case in which payment thereof will cause undue hardship to the attorney.

(9) Permanent Retirement Status. An attorney may file a petition with the court requesting that he or she be placed on permanent retirement status. All of the provisions of retirement status enumerated in Rule 756(a)(6) shall apply, except that an attorney who is granted permanent retirement status may not thereafter change his or her registration designation to active or inactive status, petition for reinstatement pursuant to Rule 767, or provide *pro bono* services as otherwise allowed under paragraph (j) of this rule.

(A) The petition for permanent retirement status must be accompanied by a consent from the Administrator, consenting to permanent retirement status. If the petition is not accompanied by a consent from the Administrator, it shall be denied.

(B) An attorney shall not be permitted to assume permanent retirement status if:

1. there is a pending disciplinary proceeding against the attorney before the Hearing Board or a complaint has been voted against the attorney by the Inquiry Board;

2. there is a pending investigation against the attorney that involves:

a. an allegation that the attorney converted funds or misappropriated funds or property of a client or third party;

b. an allegation that the attorney engaged in criminal conduct that reflects adversely on the attorney's honesty; or

c. the alleged conduct resulted in or is likely to result in actual prejudice (loss of money, legal rights, or valuable property rights) to a client or other person, unless restitution has been made; or

3. the attorney retains an active license to practice law in jurisdictions other than the State of Illinois.

(C) If permanent retirement status is granted, the Administrator and/or the Inquiry Board shall close any pending disciplinary investigation of the attorney. The Administrator may resume such investigations pursuant to Commission Rule 54 and may initiate additional investigations and proceedings of the attorney as circumstances warrant.

(b) The Master Roll. The Administrator shall prepare a master roll of attorneys consisting of the names of attorneys who have registered and have paid or are exempt from paying the registration fee. The Administrator shall maintain the master roll in a current status. At all times a copy of the master roll shall be on file in the office of the clerk of the court. An attorney who is not listed on the master roll is not

entitled to practice law or to hold himself or herself out as authorized to practice law in this state. An attorney listed on the master roll as on inactive or retirement status shall not be entitled to practice law or to hold himself or herself out as authorized to practice law in Illinois, except as is provided in paragraph (j) of this rule.

(c) Notice of Registration. On or before the first day of November of each year the Administrator shall mail to each attorney on the master roll a notice that annual registration is required on or before the first day of January of the following year. It is the responsibility of each attorney on the master roll to notify the Administrator of any change of address within 30 days of the change. Failure to receive the notice from the Administrator shall not constitute an excuse for failure to register.

(d) Disclosure of Trust Accounts. As part of registering under this rule, each lawyer shall identify any and all accounts maintained by the lawyer during the preceding 12 months to hold property of clients or third persons in the lawyer's possession in connection with a representation, as required under Rule 1.15(a) of the Illinois Rules of Professional Conduct, by providing the account name, account number and financial institution for each account. For each account, the lawyer shall also indicate whether each account is an IOLTA account, as defined in Rule 1.15(i)(2) of the Illinois Rules of Professional Conduct. If a lawyer does not maintain a trust account, the lawyer shall state the reason why no such account is required.

(e) Disclosure of Malpractice Insurance. As part of registering under this rule, each lawyer shall disclose whether the lawyer has malpractice insurance on the date of the registration, and if so, shall disclose the dates of coverage for the policy. The Administrator may conduct random audits to assure the accuracy of information reported. Each lawyer shall maintain, for a period of seven years from the date the coverage is reported, documentation showing the name of the insurer, the policy number, the amount of coverage and the term of the policy, and shall produce such documentation upon the Administrator's request. The requirements of this subsection shall not apply to attorneys serving in the office of justice, judge, associate judge or magistrate as defined in subparagraph (a)(4) of this rule on the date of registration.

(f) Disclosure of Voluntary *Pro Bono* Service. As part of registering under this rule, each lawyer shall report the approximate amount of his or her *pro bono* legal service and the amount of qualified monetary contributions made during the preceding 12 months.

(1) *Pro bono* legal service includes the delivery of legal services or the provision of training without charge or expectation of a fee, as defined in the following subparagraphs:

(a) legal services rendered to a person of limited means;

(b) legal services to charitable, religious, civic, community, governmental or educational organizations in matters designed to address the needs of persons of limited means;

(c) legal services to charitable, religious, civic, or community organizations in matters in furtherance of their organizational purposes; and

(d) training intended to benefit legal service organizations or lawyers who provide *pro bono* services.

In a fee case, a lawyer's billable hours may be deemed *pro bono* when the client

and lawyer agree that further services will be provided voluntarily. Legal services for which payment was expected, but is uncollectible, do not qualify as *pro bono* legal service.

(2) *Pro bono* legal service to persons of limited means refers not only to those persons whose household incomes are below the federal poverty standard, but also to those persons frequently referred to as the "working poor." Lawyers providing *pro bono* legal service need not undertake an investigation to determine client eligibility. Rather, a good-faith determination by the lawyer of client eligibility is sufficient.

(3) Qualified monetary contribution means a financial contribution to an organization as enumerated in subparagraph (1)(b) which provides legal services to persons of limited means or which contributes financial support to such an organization.

(4) As part of the lawyer's annual registration fee statement, the report required by subsection (f) shall be made by answering the following questions:

(a) Did you, within the past 12 months, provide any *pro bono* legal services as described in subparagraphs (1) through (4) below? ____ Yes ____ No

If no, are you prohibited from providing legal services because of your employment? ____ Yes ____ No

If yes, identify the approximate number of hours provided in each of the following categories where the service was provided without charge or expectation of a fee:

(1) hours of legal services to a person/persons of limited means;

(2) hours of legal services to charitable, religious, civic, community, governmental or educational organizations in matters designed to address the needs of persons of limited means;

(3) hours of legal services to charitable, religious, civic or community organizations in furtherance of their organizational purposes; and

(4) hours providing training intended to benefit legal service organizations or lawyers who provide *pro bono* services.

Legal services for which payment was expected, but is not collectible, do not qualify as *pro bono* services and should not be included.

(b) Have you made a monetary contribution to an organization which provides legal services to persons of limited means or which contributes financial support to such organization? ____ Yes ____ No

If yes, approximate amount: $_____.

(5) Information provided pursuant to this subsection (f) shall be deemed confidential pursuant to the provisions of Rule 766, but the Commission may report such information in the aggregate.

(g) Removal from the Master Roll. On February 1 of each year the Administrator shall remove from the master roll the name of any person who has not registered for that year. A lawyer will be deemed not registered for the year if the lawyer has failed to provide trust account information required by paragraph (d) of this rule or if the lawyer has failed to provide information concerning malpractice coverage required by paragraph (e) or information on voluntary *pro bono* service required by paragraph (f) of this rule. Any person whose name is not on the master

roll and who practices law or who holds himself or herself out as being authorized to practice law in this state is engaged in the unauthorized practice of law and may also be held in contempt of the court.

(h) Reinstatement to the Master Roll. An attorney whose name has been removed from the master roll solely for failure to register and pay the registration fee may be reinstated as a matter of course upon registering and paying the registration fee prescribed for the period of his suspension, plus the sum of $25 per month for each month that such registration fee is delinquent.

(i) No Effect on Disciplinary Proceedings. The provisions of this rule pertaining to registration status shall not bar, limit or stay any disciplinary investigations or proceedings against an attorney except to the extent provided in Rule 756(a)(9) regarding permanent retirement status.

(j) *Pro Bono* Authorization for Inactive and Retired Status Attorneys and ~~House Counsel~~ Attorneys Admitted in Other States.

(1) Authorization to Provide *Pro Bono* Services. ~~Notwithstanding the limitations on practice for~~ An attorney~~s~~ who is registered as inactive or retired ~~as set forth in~~ under Rule 756(a)(5) or (a)(6), or ~~for~~ an attorney~~s~~ who is admitted ~~as house counsel pursuant to Rule 716,~~ in another state and is not disbarred or otherwise suspended from practice in any jurisdiction~~, such an attorney~~ shall be authorized to provide *pro bono* legal services under the following circumstances:

(a) without charge or an expectation of a fee by the attorney;

(b) to persons of limited means or to organizations, as defined in paragraph (f) of this rule; and

(c) under the auspices of a sponsoring entity, which must be a not-for-profit legal services organization, governmental entity, law school clinical program, or bar association providing *pro bono* legal services as defined in paragraph (f)(1) of this rule.

(2) Duties of Sponsoring Entities. In order to qualify as a sponsoring entity, an organization must submit to the Administrator an application identifying the nature of the organization as one described in section (j)(1)(c) of this rule and describing any program for providing *pro bono* services which the entity sponsors and in which ~~retired or inactive lawyers or house counsel~~ attorneys covered under paragraph (j) may participate. In the application, a responsible attorney shall verify that the program will provide appropriate training and support and malpractice insurance for volunteers and that the sponsoring entity will notify the Administrator as soon as any attorney authorized to provide services under this rule has ended his or her participation in the program. The organization is required to provide malpractice insurance coverage for any ~~retired or inactive lawyers or house counsel~~ attorneys participating in the program and must inform the Administrator if the organization ceases to be a sponsoring entity under this rule. ~~To continue to qualify under this rule, a sponsoring entity shall be required to submit an annual statement verifying the continuation of any programs and describing any changes in programs in which retired or inactive lawyers or house counsel may participate.~~

(3) Procedure for Attorneys Seeking Authorization to Provide *Pro Bono* Services. An attorney admitted in Illinois who is registered as inactive or retired, or

an attorney who is admitted ~~as house counsel~~ in another state but not Illinois, who seeks to provide *pro bono* services under this rule shall submit a statement to the Administrator so indicating, along with a verification from a sponsoring entity or entities that the attorney will be participating in a *pro bono* program under the auspices of that entity. An attorney who is seeking authorization based on admission in another state shall also disclose all other state admissions and whether the attorney is the subject of any disbarment or suspension orders in any jurisdiction. The attorney's statement shall include the attorney's agreement that he or she will participate in any training required by the sponsoring entity and that he or she will notify the Administrator within 30 days of ending his or her participation in a *pro bono* program. Upon receiving the attorney's statement and the entity's verification, the Administrator shall cause the master roll to reflect that the attorney is authorized to provide *pro bono* services. That authorization shall continue until the end of the calendar year in which the statement and verification are submitted, unless the lawyer or the sponsoring entity sends notice to the Administrator that the program or the lawyer's participation in the program has ended.

(4) Renewal of Authorization. An attorney who has been authorized to provide *pro bono* services under this rule may renew the authorization on an annual basis by submitting a statement that he or she continues to participate in a qualifying program, along with verification from the sponsoring entity that the attorney continues to participate in such a program under the entity's auspices and that the attorney has taken part in any training required by the program. An attorney who is seeking renewal based on admission in another state shall also affirm that the attorney is not the subject of any disbarment or suspension orders in any jurisdiction.

(5) Annual Registration for Attorneys on Retired Status. Notwithstanding the provisions of Rule 756(a)(6), a retired status attorney who seeks to provide *pro bono* services under this rule must register on an annual basis, but is not required to pay a registration fee.

(6) MCLE Exemption. The provisions of Rule 791 exempting attorneys from MCLE requirements by reason of being registered as inactive or retired shall apply to inactive or retired status attorneys authorized to provide *pro bono* services under this rule, except that such attorneys shall participate in training to the extent required by the sponsoring entity.

(7) Disciplinary Authority. Lawyers admitted in another state who are providing legal services in this jurisdiction pursuant to this paragraph are subject to this Court's disciplinary authority and the Rules of Professional Conduct of this jurisdiction, as provided in Rule 8.5 of the Rules of Professional Conduct of 2010. Any lawyer who provides legal services pursuant to this rule shall not be considered to be engaged in the unlawful practice of law in this jurisdiction.

Adopted January 25, 1973, effective February 1, 1973; amended effective May 17, 1973, April 1, 1974, and February 17, 1977; amended August 9, 1983, effective October 1, 1983; amended April 27, 1984, and June 1, 1984, effective July 1, 1984; amended July 1, 1985, effective August 1, 1985; amended effective November 1, 1986; amended December 1, 1988, effective December 1, 1988; amended November 20, 1991, effective

immediately; amended June 29, 1999, effective November 1, 1999; amended July 6, 2000, effective November 1, 2000; amended July 26, 2001, effective immediately; amended October 4, 2002, effective immediately; amended June 15, 2004, effective October 1, 2004; amended May 23, 2005, effective immediately; amended September 29, 2005, effective immediately; amended June 14, 2006, effective immediately; amended September 14, 2006, effective immediately; amended March 26, 2008, effective July 1, 2008; amended July 29, 2011, effective September 1, 2011; amended June 5, 2012, eff. immediately; amended June 21, 2012, eff. immediately; amended Nov. 28, 2012, eff. immediately; amended Apr. 8, 2013, eff. immediately.

Committee Comments
(April 8, 2013)

Paragraph (j) is not intended to apply to attorneys who are otherwise authorized to provide *pro bono* service in Illinois, including house counsel admitted under Rule 716.

Amended Rule 10-100

Rule 10-100. Illinois Supreme Court Commission on Access to Justice

(a) Purpose.

The Illinois Supreme Court Commission on Access to Justice is established to promote, facilitate, and enhance equal access to justice with an emphasis on access to the Illinois civil courts and administrative agencies for all people, particularly the poor and vulnerable. The purpose is to make access to justice a high priority for everyone in the legal system and, to the maximum extent possible, the Commission is intended to complement and collaborate with other entities addressing access to justice issues.

(b) Membership and Terms.

(1) The Illinois Supreme Court shall appoint seven members to the Commission. In addition, the Illinois Bar Foundation, The Chicago Bar Foundation, Lawyers Trust Fund of Illinois, and the Illinois Equal Justice Foundation shall have the right to appoint one member each. The commission shall be composed of five members of the judiciary, five lawyers, and one member who is not a lawyer. The Chief Justice of the Illinois Supreme Court shall appoint a person to serve as chair of the commission from among the members of the commission.

(i) The Illinois Supreme Court Commission on Access to Justice may, at its discretion, appoint separate specialized working groups and members to assist it in the carrying out of the purposes of the commission. Specialized groups may include, for example, Education, Court Rules/Procedures, Resources, Standardized Forms, and New Initiatives. These groups shall focus on particular issues within the working group's area of concentration. Membership within these specialized groups may be composed of both members and nonmembers

of the Illinois Access to Justice Commission.

(2) Appointed members shall be selected based on their dedication to the purposes and goals of the Commission. The potential appointee's contributions to the bar and community and demonstrated commitment to providing legal services to the underserved also shall be considered.

(3) Members of the Commission shall be appointed for terms of three years, except that in making initial appointments to the Commission, the Court may make appointments for one-year or two-year terms to ensure that the terms of the Commission's members are staggered, so that no more than one third of the members' terms expire in any given year.

(4) Members shall not be compensated for their contributions, but may be reimbursed for their necessary expenses.

(c) Duties.

In realizing the purpose of the Commission, the duties may include:

(1) encouraging means by which individuals can find proper legal representation in the judicial system;

(2) maintaining circuit court and community support and assistance so that the existing legal self-help centers in all Illinois counties can remain effective and accessible;

(3) collaborating with the circuit courts to develop standard guidelines and judicial education programs regarding interaction between self-represented litigants, judges, clerks, and other court personnel;

(4) creating standardized forms for simpler civil legal problems and basic procedural functions that, while not required for use by all litigants, would be required for courts to accept for filing throughout the state to ease the difficulty in self-representation;

(5) addressing language barriers in the courtroom;

(6) addressing the issue of accessibility to the courts, particularly in rural areas of Illinois;

(7) recognizing judges, attorneys, clerks, or other court personnel for their contributions of leadership and commitment to access to justice;

(8) recommending legislation, court rules, codes of conduct, policies, appropriations, and systematic changes that will open greater access to the courts, as needed;

(9) working with law schools in the development and furtherance of court-based programs that enhance equal access to justice;

(10) monitoring and sharing information on equal justice activities of similar entities in Illinois and in states outside of Illinois;

(11) expanding social work and social services in the court system for the purposes of addressing access to justice for individuals with special needs;

(12) supporting and guiding circuit court efforts to increase access through court-based information systems, Web sites, social media, and other technology platforms;

(13) researching and developing information by which the Commission's purpose can be made successful;

(**14**) promoting and supporting *pro bono* efforts in the state and fostering judicial

and circuit court support for *pro bono* efforts throughout the state; and

(**15**) recommending to the Supreme Court other methods and means of improving the purposes and goals laid out in section (a) above.

(d) Administration.

(1) The Commission shall meet twice a year, at a minimum, and at other times at the request of the chair.

(2) A majority of its members in attendance at a meeting shall constitute a quorum. Meetings may be held at any place within the state and may also be held by means of telecommunication.

(3) The chair may appoint committees of members and assign them responsibilities consistent with the purposes and duties of the Commission.

(4) The Commission shall submit an annual report to the Court reporting on its activities and finances in the previous year and describing future goals for the upcoming year.

(5) ~~Initially, staff will be volunteers.~~ The Commission shall appoint, with the approval of the Supreme Court, an Executive Director to serve as the principal executive officer to support the Commission's purpose and carry out its duties. The Executive Director, with the Commission's approval, may hire sufficient staff as necessary to assist in fulfilling the Commission's duties.

(6) ~~Any other s~~Support for the Commission will be provided through in-kind and financial support from a combination of private and public sources.

Adopted June 13, 2012, eff. immediately; amended Apr. 8, 2013, eff. immediately.